

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

-----X
RYAN SHUMWAY,

Plaintiffs,

-against-

CATHOLIC DIOCESE OF BUFFALO AND OUR
LADY OF MERCY CHURCH, formerly known as
ST. PETER'S CHURCH,

Defendants,
-----X

SUMMONS

Plaintiff(s) designate Erie
County as the place of trial.

The basis of the venue is
Plaintiffs Residence

Plaintiff(s) reside at
340 Rutgers Street
Rochester, NY 14607

Index No.:
Date Summons &
Complaint Filed:

To the above named Defendant(s)

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorney(s) within twenty days after the services of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Port Washington, NY
October 3, 2019

By: 
Brett A. Zekowski
Parker Waichman LLP
Office & Post Office Address:
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500
Our File # 9018125

TO:

Catholic Diocese of Buffalo
795 Main Street
Buffalo, New York 14203

Our Lady of Mercy Church
Formerly known as St. Peter's Church
44 Lake Street
Leroy, New York 14482

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

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RYAN SHUMWAY,

Plaintiff,

-against-

CATHOLIC DIOCESE OF BUFFALO AND
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Defendants,
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VERIFIED COMPLAINT

Index No.:

Jury Trial Demanded

Plaintiff, Ryan Shumway, by his attorneys Parker Waichman LLP, complaining of the defendants, respectfully alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

1. At the time of the commencement of this action plaintiff, Ryan Shumway, was a resident of the County of Monroe, State of New York.

2. At the time of the incident(s) giving rise to this complaint, plaintiff was a resident of the County of Monroe, State of New York.

3. This action is timely pursuant to CPLR 214-g.

4. At all times herein mentioned, defendant CATHOLIC DIOCESE OF BUFFALO was a religious corporation organized pursuant to the Religious Corporations Law, with its principal office at 795 Main Street, Buffalo, New York 14203.

5. At all times herein mentioned, defendant OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH, was a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 44 Lake Street, Leroy New York 14482.

6. At all times herein mentioned, OUR LADY OF MERCY CHURCH, formerly

known as ST. PETER'S CHURCH, was a Roman Catholic Church or parish within and under the authority of CATHOLIC DIOCESE OF BUFFALO.

7. At all times herein mentioned CATHOLIC DIOCESE OF BUFFALO oversaw, managed, controlled, directed and operated OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

8. At all times herein mentioned OUR LADY OF MERCY CHURCH oversaw, managed, controlled, directed and operated OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

9. At all times herein mentioned CATHOLIC DIOCESE OF BUFFALO managed, supervised and controlled those who were employed or otherwise worked for OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH including, but not limited to priests, nuns and other personnel and volunteers, both while they were on premises and engaged in off-premises activities related to their employment with OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

10. At all times herein mentioned OUR LADY OF MERCY CHURCH managed, supervised and controlled those who were employed or otherwise worked for OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH including, but not limited to priests, nuns and other personnel and volunteers, both while they were on premises and engaged in off-premises activities related to their employment with OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

11. From on or about 1998-1993 plaintiff RYAN SHUMWAY was a parishioner of OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

12. At all times herein mentioned, Steven Phillip Vernaccini was employed by CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly

known as ST. PETER'S CHURCH.

13. Through his position with CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH, Steven Phillip Vernaccini was put in direct contact with Plaintiff, Ryan Shumway, then an infant.

14. That on or about 1988-1993, Steven Phillip Vernaccini, sexually abused the plaintiff, Ryan Shumway.

15. At all times herein mentioned, Steven Phillip Vernaccini was under the management, supervision, employ, direction and/or control of Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

16. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH knew and/or reasonably should have known and/or knowingly condoned and/or covered up, the inappropriate and unlawful sexual activities of Steven Phillip Vernaccini who sexually abused the Plaintiff Ryan Shumway while Plaintiff Ryan Shumway was an infant.

17. Defendants, CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH had the responsibility to manage, supervise, control and/or direct their employees.

18. At all relevant times, CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH had a duty not to aid pedophiles such as Steven Phillip Vernaccini by assigning, maintaining and/or appointing he/she to positions in which he/she would have access to minors.

19. At all relevant times, Steven Phillip Vernaccini used his position as a music instructor/choir instructor to entice, take control of Ryan Shumway and sexually assault, sexually

abuse or have sexual contact with Ryan Shumway while plaintiff was a minor.

20. Steven Phillip Veraccini used his positions at CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH to gain access to defendants' youngest parishioners, to sexually assault, sexually abuse and/or have sexual contact with plaintiff Ryan Shumway in violation of the laws of the State of New York.

21. Plaintiff suffered physical and psychological injuries and damages as a result of his childhood sexual abuse by Steven Phillip Vernaccini.

22. As a direct result of defendants' conduct, Plaintiff Ryan Shumway suffered and will continue to suffer great pain of body and mind, severe and permanent emotional distress and physical manifestations of emotional distress. As a result of his childhood sexual abuse, plaintiff has been prevented from obtaining the full enjoyment of life, has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling and has incurred and will continue to incur loss of income and/or loss of earning capacity.

23. Because of his childhood sexual abuse, Plaintiff Ryan Shumway is unable to fully describe all of the details of that abuse and the extent of the harm that he suffered as a result.

**AS AND FOR A FIRST CAUSE OF ACTION
NEGLIGENT HIRING, RETENTION, SUPERVISION AND/OR DIRECTION**

24. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 21 as if fully set forth herein.

25. The sexual abuse of children by adults, including priests and teachers, is foreseeable.

26. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH at all relevant times represented and held out to the public OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S

CHURCH to be safe places for learning and participating in youth activities.

27. At all relevant times, defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH were each under an express and/or implied duty to protect and care for plaintiff, Ryan Shumway.

28. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH negligently hired, retained, directed and supervised Steven Phillip Vernaccini because they knew or should have known that Steven Phillip Vernaccini posed a threat of sexual abuse of children such as plaintiff, Ryan Shumway.

29. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH knew or should have known that Steven Phillip Vernaccini had a propensity to engage in the conduct which caused plaintiff, Ryan Shumway's injuries prior to or about the time of the occurrence of these injuries.

30. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH and owed a duty of care to all minors, including plaintiff, Ryan Shumway who were likely to come under the influence or supervision of Steven Phillip Veraccini in their role as music teacher, teacher, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer to ensure that Steven Phillip Veraccini did not use his assigned positions to injure minors by sexual assault, sexual abuse or sexual contact with minors.

31. Steven Phillip Veraccini sexually assaulted, sexually abused and/or had sexual contact with plaintiff Ryan Shumway on Defendants' premises, including OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

32. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH were put on notice of Steven n Phillip

Veraccini's improper and inappropriate actions toward minors.

33. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH were negligent in failing to properly supervise Steven n Phillip Vernaccini.

34. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH were negligent in failing to properly manage Steven n Phillip Vernaccini.

35. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH were negligent in failing to properly control Steven n Phillip Vernaccini.

36. At all relevant times, defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH were willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of plaintiff, Ryan Shumway.

37. As a direct and proximate result of defendants' above described omissions, plaintiff Ryan Shumway has suffered and will continue to suffer the injuries described herein.

38. By reason of the foregoing, the Defendants are liable to plaintiff Ryan Shumway jointly, severally and/or in the alternative, for compensatory damages and punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION
NEGLIGENCE/GROSS NEGLIGENCE**

39. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 36 as if fully set forth herein.

40. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH knew or negligently failed to know that Steven n Phillip Veraccini posed a threat of sexual abuse to children.

41. The acts of Steven n Phillip Veraccini as described above, were undertaken, enabled by, and/or during the course of their respective employment, assignment, appointment and/or agency with defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

42. Defendants, CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons in work involving risk of harm to others;
- b. failed to adequately supervise the activities of Steven n Phillip Vernaccini; failed to adequately supervise and safeguard minors attending OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH;
- c. permitted and/or intentionally failed and/or neglected to prevent negligent or tortious conduct by persons, whether or not their servants, agents or employees, upon premises under their control; and
- d. allowed the acts of omission and/or commission of any or all of the allegations set forth in this Complaint to occur.

43. At all relevant times Steven n Phillip Vernaccini was under the supervision, employ, direction and/or control of defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

44. At all relevant times, defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH were wanton, willful,

malicious, reckless and outrageous in their disregard for the rights and safety of plaintiff, Ryan Shumway which conduct was equivalent to criminal conduct.

45. As a direct and/or indirect result of said conduct, Plaintiff Ryan Shumway has suffered injuries and damages as described herein.

46. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**THIRD CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY**

47. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 44 as if fully set forth herein.

48. At all relevant times, there existed a fiduciary relationship of trust, confidence, and reliance between plaintiff, on the one hand, and defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH on the other, based upon the entrustment of plaintiff, Ryan Shumway while he was a minor child, to the care and supervision of the defendants and each of them, as a parishioner, worshiper, invitee, attendee or guest at OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH and as a student, invitee, attendee or guest at OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH. The entrustment of the plaintiff Ryan Shumway to the care and supervision of the defendants and each of them, while plaintiff was a minor child, required the defendants to assume a fiduciary role and to act in the best interests of the plaintiff and to protect him while he was a minor and vulnerable child.

49. Pursuant to their fiduciary relationship with Plaintiff, Ryan Shumway, defendants were entrusted with the well-being, care and safety of Plaintiff, Ryan Shumway.

50. Pursuant to their fiduciary relationship with Plaintiff, defendants assumed a duty to act in the best interests of Plaintiff.

51. Defendants, CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH breached their fiduciary duties to plaintiff, Ryan Shumway.

52. At all relevant times, the actions and/or inactions of CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH were willful, malicious, wanton, reckless and outrageous in their disregard for the rights and safety of plaintiff, Ryan Shumway.

53. As a direct result of defendants' conduct, plaintiff has suffered injuries and damages described herein.

54. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**FOURTH CAUSE OF ACTION
BREACH OF NON-DELEGABLE DUTY**

55. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 52 as of fully set forth herein.

56. When he was a minor, plaintiff Ryan Shumway was placed in the care of defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH for the purposes of providing plaintiff with a safe environment in

which to participate in youth activities and receive an education. There was thus created a non-delegable duty of trust between plaintiff and defendants.

57. Plaintiff Ryan Shumway was a vulnerable child when placed in the care of defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

58. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH and each of them, were in the best position to prevent plaintiff Ryan Shumway from being abused and/or to have learned of the repeated abuse by Steven n Phillip Vernaccini and to have stopped it.

59. As evidenced by the fact that plaintiff Ryan Shumway was sexually abused as a minor child entrusted to the care of the defendants, these defendants breached their non-delegable duty to plaintiff.

60. At all relevant times, Steven n Phillip Vernaccini was under the supervision, employment, direction and/or control of defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH.

61. As a result of the sexually abusive conduct of Steven n Phillip Vernaccini, plaintiff Ryan Shumway suffered the injuries and damages described herein, the full extent of which is unknown at present.

62. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**FIFTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

63. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 60 above as if set forth at length herein.

64. As described above, defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH acted in a negligent and/or grossly negligent manner.

65. The actions of defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH endangered plaintiff's safety and caused him to fear for his own safety.

66. As a direct and proximate result of the actions of defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH which included, but were not limited to, negligent and/or grossly negligent conduct, plaintiff suffered severe injuries and damages as described herein, including, but not limited to, mental and emotional distress.

67. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**SIXTH CAUSE OF ACTION
BREACH OF STATUTORY DUTY PURSUANT TO NEW YORK
SOCIAL SERVICES LAW §§ 413, 420 TO REPORT ABUSE**

68. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 65 as if fully set forth herein.

69. Pursuant to N.Y. Social Services Law §§413, 420, defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH had a statutory duty to report the reasonable suspicion of abuse of children

in their care.

70. Defendants CATHOLIC DIOCESE OF BUFFALO and OUR LADY OF MERCY CHURCH, formerly known as ST. PETER'S CHURCH breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Steven n Phillip Vernaccini of children in his care.

71. As a direct and/or indirect result of said conduct, plaintiff Ryan Shumway has suffered injuries and damages as described above.

72. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**SEVENTH CAUSE OF ACTION
SEXUAL ABUSE
(AS TO DEFENDANT(S) JOHN DOE)**

73. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 70 as if fully set forth herein.

74. Steven n Phillip Vernaccini did sexually assault, sexually abuse, and/or have sexual contact with plaintiff in violation of the laws of the State of New York.

75. By repeatedly sexually assaulting, sexually abusing and/or having sexual contact with plaintiff, Steven n Phillip Vernaccini placed plaintiff Ryan Shumway in imminent and reasonable apprehension of harmful and offensive contact.

76. By repeatedly sexually assaulting, sexually abusing and/or having sexual contact with plaintiff, Steven n Phillip Vernaccini acted so as to cause repeated unjustified, harmful and offensive physical contact with plaintiff, Ryan Shumway.

77. As a direct result of defendants' conduct, plaintiff Ryan Shumway has suffered the injuries and damages described herein.

78. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against defendants on each cause of action as follows:

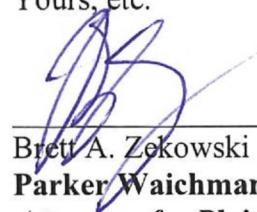
- A. Awarding compensatory damages in an amount to be proven at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: Port Washington, New York
October 3, 2019

Yours, etc.



Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
Office & Post Office Address
6 Harbor Park Drive
Port Washington, NY 11050
516-466-6500
Our File # 9018125

Index No.

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COUNTY OF ERIE

RYAN SHUMWAY,

Plaintiff,

-against-

CATHOLIC DIOCESE OF BUFFALO AND OUR LADY OF MERCY CHURCH FORMERLY
KNOWN AS ST. PETER'S CHURCH,

Defendants,

SUMMONS AND COMPLAINT

Certification per 22NYCRR §130-1.1a

Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500

To:
Attorney(s) for

Service of a copy of the within is hereby admitted.

Dated:
Attorney(s) for

PLEASE TAKE NOTICE

NOTICE OF

ENTRY that the within is a (certified) true copy of a entered in the office of the Clerk of the within named
Court on 2019 .

NOTICE that an Order of which the within is a true copy will be presented to the Hon. , one of the

OF

SETTLEMENT judges of the within named Court, at ,

, on
2019, at M.

Dated:

Parker Waichman LLP
Attorneys for Plaintiff(s)

TO: